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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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OAKLAND DIVISION

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13 FUJITSU LIMITED and FUJITSU MICROELECTRONICS AMERICA, INC.	) Case No. 4:06-CV-06613 (CW) (JCS)) 4:07-CV-03672 (CW)) 4:08-CV-01254 (CW)
14 Plaintiffs,	)
15 vs.	) **STIPULATED MOTION AND [PROPOSED]**) **ORDER FOR ADDENDUM TO THE**) **STIPULATED PROTECTIVE ORDER**
16 NANYA TECHNOLOGY CORP. and NANYA TECHNOLOGY CORP. U.S.A.	) **(DKT. #77)**)
17	)
18 Defendants.	)
19 NANYA TECHNOLOGY CORP. and NANYA TECHNOLOGY CORP. USA	))
20	)
21 Third-Party Plaintiff,	))
22 vs.	))
23 KLA-TENCOR CORPORATION,	))
24 Third-Party Defendant.	)

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ADDENDUM TO THE FEBRUARY 20, 2007 STIPULATED PROTECTIVE ORDER

Fujitsu Limited and Fujitsu Microelectronics America, Inc., Nanya Technology Corp. and Nanya Technology Corp. U.S.A., and KLA-Tencor Corporation hereby stipulate and agree to this Addendum to the February 20, 2007, Stipulated Protective Order:

1.   Clarification Regarding Paragraph 1(b) of the Stipulated Protective Order

In paragraph 1(b) of the Stipulated Protective Order, the designation "CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY" may include technical documents, source code, algorithms, descriptions of algorithms, theories of operations, electronically stored information, things, materials, testimonies, information (as defined by Rule 34 of the Federal Rules of Civil Procedure) or other forms of evidence or discovery, or portions thereof, related to the structure and/or operation of any product involved in this action.

2.   Protocol Regarding Source Code

The parties have agreed on the following protocol for the inspection of source code. Source code refers to human-readable text files used as input to computer programs that generate machine-readable files. Source code includes, but is not limited to, files containing program text in "C", "C++", assembler, VHDL, Verilog, and other programming languages. Source code further includes "make" files, link files, software algorithms, and other human-readable text files used in the generation and/or building of software directly executed on a microprocessor or a microcontroller. Source code does not include process flows, circuit designs, graphic data system (GDS) files or any similar electronically stored information.

a.   The disclosing Party will provide pre-Bates stamped and pre-confidentiality designated stamped (but otherwise blank) printing paper. Source code may only be printed on such paper on a designated printer at a secure facility(ies) designated by the disclosing party.

b.   Only those persons identified in paragraphs 7(i), (iii) and (iv) of the Stipulated Protective Order may have access to the secure facility(ies) for inspection of the disclosing party's source code. The receiving party's counsel shall provide to outside counsel for the disclosing party the name of any individual who will require access to the secure facility at least three business days before

1 such access will be granted the first time. Individuals who have been previously identified according

2 to this paragraph may access the secure facility, consistent with the normal practice at the facility,

3 without further approval, although the disclosing party shall be informed each time such persons

4 access the secured facility.

5   c.   If the individual(s) inspecting the disclosing party's source code desire(s) to take notes,

6 all such notes will be taken on bound (spiral or other type of permanently bound) notebooks. No loose

7 paper or other paper that can be used in a printer may be brought in to the secure facility.

8   d.   Outside counsel for the parties will make arrangements with the designated facility(ies)

9 for the computer and the printer. The receiving party may request that standard software analysis tools

10 used by the disclosing party be available on the disclosing party's computer, which request shall not be

11 unreasonably denied. The disclosing party shall not record, monitor, or otherwise attempt to obtain the

12 work product of the receiving party during the inspection.

13   e.   No computer component or peripheral that may be suitable for use with the computer or

14 printer in the room (including hard drives and floppy drives, tape drivers, modems and modem cards,

15 etc.) will be permitted in the secure facility(ies).

16   f.   At the end of each working day, all originally printed pages will be retained by

17 disclosing party representatives who will then make one copy for the designated individual from the

18 receiving party. Only such copies of selected source code may be removed from the facility by the

19 individuals identified in paragraphs 7(i), (iii) and (iv) of the Stipulated Protective Order. Printing and

20 copying may not be done in such volume as to circumvent the purpose of this provision in protecting

21 the parties' source code to the fullest extent possible.

22   g.   No originally printed paper will be permitted to be removed from the facility other than

23 by representatives of the disclosing party.

24   h.   Inspecting personnel will be required to give 3 business days notice before being

25 granted access to the secure facility during normal working hours for the selected facility. Any person

26 or party who fails to observe the notice requirement may be denied access.

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HOWREY LLP   STIPULATED MTN & PROPOSED ORDER FOR   -3-
ADDENDUM TO PROTECTIVE ORDER
CASE NO. 4:06-CV-06613 (CW)

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1   i.   This agreement will not preclude any party from seeking source code in a form other

2   than as set forth herein, *e.g*., in native format, if good cause exists to seek the information in such other

3   form.

4   So STIPULATED and AGREED TO:

5   DATED: April 25, 2008   HOWREY LLP

6   By: /s/ _____ .
     Robert M. Harkins

7   Counsel for Third-Party Defendant
     KLA-Tencor Corp.

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9   DATED: April 25, 2008   MILBANK, TWEED, HADLEY & MCCLOY LLP

10   By: /s/ _____ .
     Michael M. Murray

11   Counsel for Plaintiffs Fujitsu Limited and

12   Fujitsu Microelectronics America, Inc.

13

14   DATED: April 25, 2008   SHORE CHAN BRAGALONE LLP

15   By: /s/ _____ .
     Alfonso G Chan

16   Counsel for Third-Party Plaintiffs
     Nanya Technology Corp. and

17   Nanya Technology Corp. U.S.A.

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19   PER STIPULATION, IT IS SO ORDERED.

20   Dated:

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22   _____
     HONORABLE CLAUDIA WILKEN

23   UNITED STATES DISTRICT JUDGE

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STIPULATED MTN & PROPOSED ORDER FOR   -4-
ADDENDUM TO PROTECTIVE ORDER
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